

REMARKS

Claims 16-32 are pending and under examination. Support for the amendments to claims 16 and 24 may be found in the specification at, for example, page 13, lines 3-6. Applicants respectfully traverse the objection and rejections made in the Office Action, wherein the Examiner:

- (1) objected to claims 21 and 22¹;
- (2) rejected claims 16, 23, and 24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent App. Pub. No. 2003/0058508 ("Webb");
- (3) rejected claims 17-20 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Webb; and
- (4) allowed claims 25-30 and 32.

Claim Objection and Allowed Claims:

Applicants acknowledge with appreciation the indication that claims 25-30 and 32 are allowed. Regarding the objection to claims 21 and 22, which depend from claim 16, Applicants submit that these claims are also allowable in view of the following reasoning presented in response to the rejection of independent claim 16.

Rejection of Claims 16, 23, and 24 under 35 U.S.C. § 102(e):

Applicants request reconsideration and withdrawal of the rejection of claims 16, 23, and 24 under 35 U.S.C. § 102(e) as being anticipated by Webb.

In order to establish anticipation under 35 U.S.C. § 102, the Office Action must show that each and every element as set forth in the claim is found, either expressly or inherently described,

¹ The PTOL-326 Office Action Summary form indicates that claims 21 and 22 are objected to, but this objection is not discussed anywhere in the Office Action. Applicants presume the Examiner intended to object to these claims as being dependent upon a rejected base claim, but being otherwise allowable if rewritten in independent form.

in Webb. See M.P.E.P. § 2131. Webb, however, does not disclose each and every element of Applicants' claims. Specifically, Webb does not disclose at least Applicants' claimed "applying to each of said optical pulses an approximately constant phase-shift having a predetermined absolute value," as recited in independent claims 16 and 24 (emphasis added).

In contrast, Webb recites at paragraph [0019] a "linear dispersion of positive or negative sign," which does not constitute the claimed "approximately constant phase-shift having a predetermined absolute value" applied to a pulse. In addition, the dispersion in Webb is produced by a passive dispersive element 16 such as a fibre (see, e.g., Webb, paragraphs [0019]-[0020]) that does not apply a phase shift (or any transformation) with a sign related to the phase value of a pulse.

Because Webb does not disclose each and every element of independent claims 16 and 24, Webb does not anticipate these claims under 35 U.S.C. § 102(e). Therefore, independent claims 16 and 24 should be allowable over Webb. In addition, dependent claim 23 should be allowable at least by virtue of its dependence from base claim 16, and because it recites additional features not disclosed in Webb. Accordingly, Applicants respectfully request withdrawal of the rejection.

Rejection of Claims 17-20 and 31 under 35 U.S.C. § 103(a):

Applicants request reconsideration and withdrawal of the rejection of dependent claims 17-21 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Webb.

The Office Action has not properly resolved the *Graham* factual inquiries, as required to establish a framework for an objective obviousness analysis. See M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 U.S.P.Q.2d 1385

(2007). In particular, the Office Action has not properly ascertained the differences between the claimed invention and the prior art.

As explained above, Applicants have established that Webb does not disclose or suggest at least Applicants' claimed "applying to each of said optical pulses *an approximately constant phase-shift having a predetermined absolute value*," as recited in independent claims 16 and 24 (emphasis added). The Office Action's application of Webb to dependent claims 17-20 and 31 does not address the deficiencies of Webb as to at least independent claims 16 and 24.

Therefore, Office Action has not properly ascertained the differences between the cited references and the claims. Because independent claim 16 should be allowable over Webb for the reasons presented in the previous section, dependent claims 17-20 and 31 should also be allowable at least by virtue of their dependence from base claim 16 and because they recite additional features not taught or suggested in Webb. Accordingly, Applicants respectfully request withdrawal of the rejection.

Conclusion:

Applicants request reconsideration of the application and withdrawal of the rejections. Pending claims 16-32 are in condition for allowance, and Applicants request a favorable action.

The Office Action contains a number of statements reflecting characterizations of the cited art and related claims. Regardless of whether any such statements are identified herein, Applicants decline to automatically subscribe to any such statements or characterizations in the Office Action.

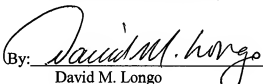
If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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